

REMARKS

Claims 14-22 are presented for consideration, with Claims 14 and 18 being independent.

Claim 14 has been amended to further distinguish Applicant's invention from the cited art. In addition, Claims 16-22 have been added to provide an additional scope of protection. Support for the claim amendments and new claims can be found, for example, in Figure 5 and the accompanying specification on page 24, line 11, *et. seq.*

Claims 14 and 15 stand rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Robertson '497. This rejection is respectfully traversed.

Claim 14 of Applicant's invention relates to an image display panel of the reflection type comprising, in a multilayer structure, a first layer including a periodic planar arrangement of a plurality of electrophoretic elements, and a second layer including a periodic planar arrangement of a plurality of electrophoretic elements. Each of the electrophoretic elements in the first layer shows one of an opaque black state and a transparent state in response to an input signal. Each of the electrophoretic elements in the second layer shows at least a first color state and a second color state in response to an input signal. As amended, Claim 14 sets forth that the electrophoretic elements included in the first layer are smaller in area than the electrophoretic elements included in the second layer, and the electrophoretic elements included in the first layer and the electrophoretic elements included in the second layer are respectively individually controlled.

In accordance with Applicant's invention, a high performance image display panel can be provided.

The patent to Robertson relates to an electrical twisting ball color display device that features multi-segment gyricon balls. As shown in Figure 12J, which is relied upon in the Office Action, an elastomer sheet 1270 has layers 1270a and 1270b, each containing bistate light valve balls. In region 1271, for example, balls 1271a are provided in upper layer 1270a, and balls 1271b are provided in the lower layer 1270b. A third layer is comprised of a backing material 1279, having an underlying dot 1271c of a red sub-pixel filter.

The Office Action asserts that the display in Figure 12J includes a first layer comprised of layer 1270a with balls 1271a, and a second layer comprised of the backing material 1279. In this regard, however, it is respectfully submitted that in Robertson the backing layer 1279 does not constitute an electrophoretic element, as set forth in Claim 14, and thus is not capable of showing first and second color states. Moreover, while lower layer 1270b could form a second layer with balls 1271b, the electrophoretic elements, i.e., the balls 1270a, in the first layer are not smaller in area than the electrophoretic elements, i.e., balls 1271b, in the second layer, as now set forth in Claim 14. Still further, Claim 14 sets forth that the electrophoretic elements included in the first layer and the electrophoretic elements included in the second layer are respectively individually controlled. In Robertson, however, the balls 1271a in the region 1271 of the elastomer sheet are controlled together (likewise for balls 1272a in region 1272 and balls 1273a in region 1273) (see column 33, lines 47-54).

It is submitted, therefore, that Robertson does not teach or suggest Applicant's invention as set forth in Claim 14. Accordingly, reconsideration and withdrawal of the rejection of the claims under 35 U.S.C. §102(b) is respectfully requested.

New Claims 16-22 are also submitted to be patentable over the cited art.

In Claim 18, for example, the electrophoretic elements included in the first layer are smaller in area than the electrophoretic elements included in the second layer. As discussed above, the backing material 1279 in Robertson is not an electrophoretic element.

Thus, it is submitted that Applicant's invention as set forth in independent Claims 14 and 18 is patentable over the cited art. In addition, dependent Claims 15-17 and 19-22 set forth additional features of Applicant's invention. Independent consideration of the dependent claim is respectfully requested.

In view of the foregoing, reconsideration and allowance of this application is deemed to be in order and such action is respectfully requested.

Applicant's undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,

/Scott D. Malpede/

---

Scott D. Malpede  
Attorney for Applicant  
Registration No. 32,533

FITZPATRICK, CELLA, HARPER & SCINTO  
30 Rockefeller Plaza  
New York, New York 10112-3800  
Facsimile: (212) 218-2200

SDM/rmm

FCHS\_WS 4867419v1